



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

ELECTRONIC MAIL
CONFIRMATION OF EMAIL RECEIPT REQUESTED

Mrs. Cathy Griffith
Operations Manager
American Power Source, Inc.
826 17th Avenue
Columbus, Mississippi 39701
cathygriffith@cableone.net

Re: American Power Source, Inc.
FIFRA Notice of Warning
Case File No. FIFRA-04-2022-0705

Dear Ms. Griffith:

The U.S. Environmental Protection Agency has obtained evidence indicating that American Power Source, Inc. (APS) appears to be in violation of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). On June 21, 2019, an inspector authorized by the EPA conducted an inspection at the APS facility located at 826 17th Avenue Columbus, Mississippi 39701 to determine compliance with FIFRA and the regulations promulgated thereunder.

APS is engaged in the manufacture, sale, and distribution of "Skintex MR III Apparel" products which are EPA registered pesticides (EPA Reg. No. 86110-2). In connection with its registration under Section 3, the master label stipulates that all "Skintex MR III Apparel" products are required to be labeled with a "permanent garment/item" label that is sewn into the article and a removeable "hangtag" label applied to the outside of the article. According to the master label, the hangtag label includes all necessary parts of the label as prescribed in 40 CFR part 156.10(a)(1)(i) through (ix) and the garment label provides only a subset of that information. Specifically, the garment label excludes the name and address of the producer, registrant or person for whom the item was produced as described in 40 CFR part 156.10(c), the net contents as prescribed in 40 CFR part 156.10(d), and the directions for use as prescribed in 40 CFR part 156.10(i) (40 CFR part 156.10(a)(1)(ii), (iii), and (viii)).

The inspection conducted on June 21, 2019, revealed that APS's practice was to sew the garment label into the articles as well as affix a stick-on version of the garment label onto the product's outer packaging, but not include the required hangtag label. Due to the garment label missing information required by 40 CFR Part 156.10, and the product not including the required hangtag label, the company appeared to be in violation of FIFRA Section 12(a)(1)(E), 7 U.S.C § 136j(a)(1)(E)(i), which states that it shall be unlawful for any person in any State to distribute or sell to any person any pesticide which is adulterated or misbranded.

In response to the potential violation of FIFRA at the facility, the EPA is issuing this Notice of Warning (NOW) to APS pursuant to FIFRA Section 9(c)(3), 7 U.S.C. § 136g(c)(3). The EPA has determined at this time that a NOW is the appropriate enforcement response for the company's apparent violation of FIFRA, provided that within 30 days of the receipt of this NOW, an authorized official of the company submits a signed statement indicating that compliance with FIFRA has been achieved and identifying the actions taken to achieve compliance with the requirements set forth above. If this statement is not submitted and/or compliance is not achieved, the EPA may initiate a more formal enforcement action which could include the filing of a complaint and the assessment of a civil penalty. Your statement should be submitted to Seth Ramsay at ramsay.seth@epa.gov. In the event that the EPA decides to initiate a more formal enforcement action, you will be notified in writing and provided an opportunity to meet with the EPA or conduct a conference call to present any facts, evidence or arguments as to why the EPA should not initiate such action.

Since your company may be classified as a small business, you may want to review the Information Sheet "U.S. EPA Small Business Resources," which can be found on the internet at: www.epa.gov/compliance/small-business-resources-information-sheet. This document will provide you with information regarding compliance and rights you may be entitled to under the Small Business Regulatory Enforcement Fairness Act.

If you have any questions about this letter, and/or would like to discuss the above-stated findings by the EPA, or would like a copy of the Information Sheet, please contact Seth Ramsay of my staff at (404) 562-9053 or by email at ramsay.seth@epa.gov.

Sincerely,

for Kimberly L. Bingham
 Chief
 Chemical Safety and Land Enforcement Branch

cc: Mr. Randy Boyle; Mississippi Department of Agriculture and Commerce (randy@mdac.ms.gov)